

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

KEVIN PAYTON,

Plaintiff,

v.

WILLIAM WARD,

Defendant.

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No. 1:18-cv-03101-JPH-MPB

**ENTRY DENYING PLAINTIFF'S MOTION FOR JUDGMENT
ON THE PLEADINGS**

This matter comes before the Court on the plaintiff's motion for judgment on the pleadings. Dkt. 106. The defendant has responded, dkt. 111, and the plaintiff replied, dkt. 117.

In his complaint, the plaintiff alleges that on or about November 16, 2016, as he entered his cell, defendant Correctional Officer Ward followed him into the cell and attacked, punched, and kicked him without provocation, causing serious injury. Dkt. 1-1 at 3-4. Defendant Ward alleges in his amended answer that it was the plaintiff who assaulted him when he stepped into the cell to look at plaintiff's medical pass. Dkt. 104 at 4. Ward further alleges that other inmates then came into the cell and assaulted him, resulting in the loss of two teeth, cuts requiring stitches, a concussion, and bruised ribs. *Id.*

"Judgment on the pleadings is appropriate when there are no disputed issues of material fact and it is clear that the moving party...is entitled to judgment as a matter of law." *Unite Here Local 1 v. Hyatt Corp.*, 862 F.3d 588, 595 (7th Cir. 2017). In ruling on a motion for judgment on the pleadings, the Court is "confined to the matters presented in the pleadings, and we must consider those pleadings in the light most favorable to [the non-movant]." *Id.*

The parties have alleged conflicting versions of what occurred on November 16, 2016. This is not an appropriate case to resolve on the pleadings. Accordingly, the plaintiff's motion for judgment on the pleadings, dkt. [106], is **DENIED**.

SO ORDERED.

Date: 9/9/2020



James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

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